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APPLICATIO	N NO. FILIT	NG DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/564,4	07/	03/2006	Akiko Itai	P29138	3483	
7055 GREF	7590 NBLUM & BERN	11/06/2007 ISTEIN P.L.C.		EXAMINER		
1950 I	OLAND CLARK			DICKINSON, PAUL W		
REST	ON, VA 20191		·	ART UNIT	PAPER NUMBER	
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			·	NOTIFICATION DATE	DELIVERY MODE	
				11/06/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com pto@gbpatent.com

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Ententions of time may be available under the provisions of 37 CFR 1.18(d), in no event, hower, may a mpty be limby! filed If NO period for reply is specified above, the maximum statutory period will apply and will expire SEX (8) MONTHS from the mailing date of this communication. Failure for reply within the set or centeded period for reply will, by status, cause the application to become ARAMONDO (30 LSC, 5 103). Any reply received by the Office later share three months after the mailing date of this communication, even if timely filed, may reduce any seemed plants the malphasment. Set 97 CFR 1.79(b). Status 1) Responsive to communication(s) filed on		Application No.	Applicant(s)					
Paul W. Dickinson - The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ½ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Exercision of term my be svalidate of the provision of J O'RT 1.7864, in the replication in the provision of J O'RT 1.7864, in the replication of the provision of J O'RT 1.7864, in the replication of the provision of J O'RT 1.7864, in the replication of the provision of J O'RT 1.7864, in the replication of the provision of Claims 4)	Office Autieur Communication	10/564,407	ITAI ET AL.					
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2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s) 17-29 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 6 Claim(s) is/are objected to. 8 Claim(s) is/are objected to. 8 Claim(s) is/are objected to. 9 The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11 The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * ○ Nonce of:	Status							
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DETAILED ACTION

Election

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Applicant is required to elect a single species of formula (I). One embodiment of formula (I) would vary differently from another embodiment, not only in structure, but in how each embodiment would behave pharmacologically.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, Applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should Applicant traverse on the ground that the inventions or species are not patentably distinct, Applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Transition Notice

Effective November 1, 2007, if applicant wishes to present more than 5 independent claims or more than 25 total claims in an application, applicant will be required to file an examination support document (ESD) in compliance with 37 CFR 1.265 before the first Office action on the merits (hereafter "5/25 claim threshold"). See Changes to Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications, 72 Fed. Reg. 46715 (Aug. 21, 2007), 1322 Off. Gaz. Pat. Office 76 (Sept. 11, 2007) (final rule). The changes to 37 CFR 1.75(b) apply to any pending applications in which a first Office action on the merits (FAOM) has not been mailed before November 1, 2007. Withdrawn claims will not be taken into account in determining whether an application exceeds the 5/25 claim threshold. For more information on the final rule, please see http://www.uspto.gov/web/offices/pac/dapp/opla/presentation/clmcontfinalrule.html.

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In response to the restriction requirement set forth in this Office action, applicant is required to file an election responsive to the restriction requirement. Applicant may not file a suggested restriction requirement (SRR) in lieu of an election responsive to the restriction requirement as a reply. A SRR alone will not be considered a *bona-fide* reply to this Office action.

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If applicant elects an invention that is drawn to no more than 5 independent claims and no more than 25 total claims, applicant will not be required to file an ESD in compliance with 37 CFR 1.265 that covers each of the elected claims. If the elected invention is drawn to more than 5 independent claims or more than 25 total claims, applicant may file an amendment canceling a number of elected claims so that the elected invention would be drawn to no more than 5 independent claims and no more than 25 total claims.

If the restriction requirement is mailed <u>on or after</u> November 1, 2007, applicant is also required to file an ESD in compliance with 37 CFR 1.265 that covers each of the elected claims, unless the elected invention is drawn to no more than 5 independent claims and no more than 25 total claims taking into account any amendment to the claims. To avoid the abandonment of the application, the ESD (if required) and the election must be filed within **TWO MONTHS** from the mailing date of this Office action. The two-month time period for reply is extendable under 37 CFR 1.136.

If the restriction requirement is mailed <u>before</u> November 1, 2007, the election must be filed within **ONE MONTH** or THIRTY DAYS, whichever is longer, from the mailing date of this Office action. The time period for reply is extendable under 37 CFR 1.136. Furthermore, if the elected invention is drawn to more than 5 independent claims or more than 25 total claims taking into account any amendment to the claims, the Office will notify applicant and provide a time period in which applicant is required to file an ESD in compliance with 37 CFR 1.265 covering each of the elected claims or amend the application to contain no more than 5 independent elected claims and no more than 25 total elected claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul W. Dickinson whose telephone number is 571-270-3499. The examiner can normally be reached on Mon-Thur 7:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information . system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul W. Dickinson Examiner Art Unit 4173

October 29, 2007

ARDIN H. MARSCHEL SUPERVISORY PATENT EXAMINER